

**FILED**

**FEB 17 2006**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

CARL LEE CALLEGARI,

Plaintiff - Appellant,

v.

J. LACY and C. SHARPES,

Defendants - Appellees,

and

STEVE CAMBRA; et al.,

Defendants.

No. 05-15674

D.C. No. CV-01-00566-FCD/KJM

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Eastern District of California  
Frank C. Damrell, District Judge, Presiding

Submitted February 13, 2006<sup>\*\*</sup>

Before: FERNANDEZ, RYMER, and BYBEE, Circuit Judges.

---

<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

California state prisoner Carl Lee Callegari appeals pro se from the district court's summary judgment in favor of correctional officers J. Lacy and C. Sharpes in his 42 U.S.C. § 1983 action alleging that the defendants filed false disciplinary reports against him in retaliation for his filing a lawsuit against the prison. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo a district court's grant of summary judgment, *Barnett v. Centoni*, 31 F.3d 813, 815 (9th Cir. 1994) (per curiam), and we affirm.

The district court properly granted summary judgment on Callegari's retaliation claims because Callegari offered only his unsupported hypothesis that defendants acted out of an improper motive. *See Nelson v. Pima Community College*, 83 F.3d 1075, 1081-82 (9th Cir. 1996) ("[M]ere allegation and speculation do not create a factual dispute for purposes of summary judgment.").

The defendants' failure to comply with the local rule requiring that a separate statement of undisputed facts accompany a motion for summary judgment is insufficient to warrant reversal in the absence of any showing of prejudice. *See Lewis v. Holzman (In re Telemart Enters., Inc.)*, 524 F.2d 761, 766 (9th Cir. 1975).

**AFFIRMED**